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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

BROWN, RUEBEN M

ART UNIT

PAPER NUMBER

2623

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/982,981	<b>Applicant(s)</b> ESCOBAR ET AL.	
	<b>Examiner</b> REUBEN M. BROWN	<b>Art Unit</b> 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25,27-32,34-59,62,68,78,80 and 84-98 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25,27-32,34-59,62,68,78,80 and 84-98 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-25, 27-32, 34-59, 78, 80 & 84-98 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sitnik, (U.S. Pat # 6,160,570), in view of Macrae, (U.S. PG-PUB 2003/0208756).

Considering claim 1, the claimed system comprising

‘a display interface’, is met by the digital TV receiver system of Sitnik, (Fig. 2; col. 4, lines 35-67; col. 6, lines 22-67).

*'input for receiving multiple viewer commands over a predetermined interval of time, each of the multiple of viewer commands being a command to invoke viewing of content at the time of entry, wherein content includes TV channel content, web page content, or e-mail content'*, reads on non-volatile storage 22, col. 6, lines 35-67; col. 7, lines 1-55; col. 8, lines 1-15, which receives viewer input commands via user interface 29 and stores them, as a user profile (Fig. 3; S301, S302).

*'interface for sending the multiple viewer commands received over the predetermined interval of time, for analysis'*, also reads on (Fig. 3; col. 1, lines 55-67; col. 8, lines 3-10).

As for the additionally claimed *'interface for receiving customized EPG data, the customized EPG data being determined based on the viewing preferences for the viewer'* and *'a processor for creating customized EPG display from the received customized EPG data for output to the display interface'*, Sitnik merely discloses that the user viewing preference data may be used to select from one or more alternative images, but does not teach that an EPG may also be customized, see col. 8, lines 18-30. Nevertheless Macrae, which is in the same field of endeavor, discloses arranging the order of display of the EPG (i.e., 'customized EPG') data based on the observed viewing pattern of the user, see Abstract; Para [0311-0320].

Both Sitnik (col. 8, lines 1-20) & Macrae [0298] disclose that the viewer's history of channel selections may take place over a predetermined period of time, which reads on the claimed subject matter of, *'sending the multiple viewer commands for analysis'*.

It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Sitnik with the feature of customizing an EPG based on viewer's preferences at least for the advantage of minimizing the time needed by a viewer to access desired content, since the programs that the viewer are more likely to prefer are placed higher in the order, as taught by Macrae, Para [0313].

As for the newly amended subject matter, *'a determination of particular TV channel content being viewed by the viewer, and a determination of whether the viewer accessed particular web content when viewing the particular TV channel content'*, Macrae teaches that the system also detects which web pages that a viewer visits during a particular TV channel viewing session, see Para [0305; 0307].

*'interface for receiving customized EPG data, being determined at least in part on the particular TV channel content being viewed by the viewer and the particular web page content related to the particular content that was accessed by the viewer when viewing the particular TV channel content'*, is also met by Macrae, [0305-0307].

Considering claims 2, 13 & 37, the claimed *'memory for storing the multiple viewer commands'* is met by memory 22, of Sitnik, col. 6, lines 30-45. Also, see Macrae [0298].

Considering claims 3, 14, 38 & 46, wherein ‘the stored multiple commands are periodically accessed by the processor and sent to host for analysis’, Macrae teaches that the collected data may be sent to a computer at the headend for analysis, Para [0303].

Considering claims 4 & 39, see Macrae Para [0110-0112] which discloses that the EPG data is displayed through a channel browser, and displays Internet content which meets the claimed subject matter, Fig. 1 & Fig. 3-Fig.7.

Considering claims 5-7, 15-17 & 40-42, see Sitnik (col. 6, lines 10-60) & Macrae [0298].

Considering claims 8, 18 & 43, Sitnik teaches that commercials may be the content alternatively chosen based on viewing preference data, col. 2, lines 17-26; col. 3, lines 1-6.

Considering claims 9, 21, 28, 35 & 47, the ‘*mini-guides*’ reads on the customized EPG of Macrae.

Considering claims 10-11, 19-20 & 44-45, Macrae teaches learning the identity of customer based on the selection history, Para [0296-0298].

Considering claim 12, the claimed elements of a method for displaying customized EPG, corresponds with subject matter mentioned above in the rejection of claim 1, and is likewise treated.

Considering claim 22, the claimed elements of a method for creating an EPG, corresponds with subject matter mentioned above in the rejection of claim 1, and is likewise treated.

Considering claims 23-25 & 30-32, see Sitnik, col. 7, lines 40-50 & Macrae [0298].

Considering claims 27 & 34, see Sitnik, col. 7, lines 41-51 & Macrae [0298, 0305].

Considering claims 29, 36 & 56, the claimed system or host, corresponds with subject matter mentioned above in the rejection of claim 1, and is likewise treated.

Regarding the first and second processors recited in claim 36, *'the first processor'* corresponds with the editing module 32 of Sitnik, col. 7, lines 41-67. The claimed *'second processor'* reads on the operation of the module used in Macrae to select the programs for display that are best suited for the profile of the customer, Para [0313-0315].

Considering claims 48 & 52, the claimed STB reads on the digital TV receiver of Sitnik, Fig. 1.

Considering claims 49-51, 53-55 & 57-59, see Sitnik, col. 4, lines 40-42; col. 6, lines 21-45.

Considering claims 78 & 80 Sitnik (col. 7, lines 41-55) & Macrae [0298] are directed to monitoring and recording user channel change and channel selection information.

Considering claims 84, 87, 90, 93 & 96, Macrae [0305] teaches the subject matter.

Considering claims 85-86, 88-89, 91-92, 94-95 & 97-98, Macrae teaches determining the category, such as sports, of the TV content, as well as the web content, see [0307].

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3. Claims 62 & 68, are rejected under 35 U.S.C. 103(a) as being unpatentable over Sitnik & Macrae, further in view of Albal, (U.S. PG-PUB 2004/0153523).

Considering claims 62 & 68, even though the viewer in Macrae uses e-mail, the reference does not discuss monitoring the E-mail content of a user when developing a user profile. Nevertheless, Albal discloses that a customer selection history/profile may include the customer's e-mail usage history, Fig. 2. In particular, Albal teaches that the system may create a record for each of a user's e-mail communication, including destination address, attachment record and other parameters, and thus meets the claimed subject matter, Para [0018]-[0028]. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify the combination of Sitnik & Macrae with the feature of including a customer's E-mail usage history, at least for the desirable benefit a creating a more accurate profile of the instant customer, see Albal [0002]-[0004]. It is noted that Albal discloses that the invention is applicable to PC systems and TV systems, and is thus compatible with Sitnik & Macrae.

### ***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after



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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

**Any response to this action should be mailed to:**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

**or faxed to:**

(571) 273-8300, (for formal communications intended for entry)

**Or:**

(571) 273-7290 (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to REUBEN M. BROWN M. Brown whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F(8:30-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications and After Final communications.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Reuben M. Brown

/Chris Kelley/  
Supervisory Patent Examiner, Art Unit 2623